

U.S. SMALL BUSINESS ADMINISTRATION

Statement of Regulatory Priorities

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses and by assisting in the physical and economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic environment for small businesses, including those in rural areas and in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. SBA has several financial, procurement, and technical assistance programs that provide a crucial foundation for those starting or growing a small business. For example, the Agency serves as a guarantor of loans made to small businesses by lenders that participate in SBA's programs, and also licenses small business investment companies that make equity and debt investments in qualifying small businesses using a combination of privately raised capital and SBA guaranteed leverage. SBA also funds various training and mentoring programs to help small businesses, particularly businesses owned by women, veterans, minorities, and other historically underrepresented groups, gain access to Federal government contracting opportunities. The Agency also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. Finally, as a vital part of its purpose, SBA also provides direct financial assistance to homeowners, renters, and businesses to repair or replace their property in the aftermath of a disaster.

Reducing Burden on Small Businesses

SBA's regulatory policy reflects a commitment to developing regulations that reduce or eliminate the burden on the public, in particular the Agency's core constituents—small businesses. SBA's regulatory process generally includes an assessment of the costs and benefits of the regulations as required by Executive Order 12866, "Regulatory Planning and Review;" Executive Order 13563, "Improving Regulation and Regulatory Review;" and the Regulatory Flexibility Act. SBA's program offices are particularly invested in finding ways to

reduce the burden imposed by the Agency's core activities in its loan, grant, innovation, and procurement programs.

On January 30, 2017, President Trump issued Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," (82 FR 9339), which established principles for prioritizing an agency's regulatory and deregulatory actions. Executive Order 13771 was followed by Executive Order 13777, "Enforcing the Regulatory Reform Agenda," (82 FR 12285, February 24, 2017), which identified processes for agencies to follow in overseeing their regulatory programs. This Agenda was prepared in accordance with both Executive Order 13771 and Executive Order 13777, and SBA will continue to work with the Office of Management and Budget to fully integrate the executive orders and to implement OMB guidance into SBA's rulemaking processes. As part of that effort, SBA issued a Request for Information in the Federal Register requesting public input on which SBA regulations should be repealed, replaced, or modified because they are obsolete, unnecessary, ineffective or burdensome (82 FR 38617, August 15, 2017). The Agency continues to evaluate the comments received and will amend its regulations as appropriate.

Openness and Transparency

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedure Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process.

Regulatory Framework

The SBA Strategic Plan serves as the foundation for the regulations that the Agency will develop during the next twelve months. This Strategic Plan provides a framework for strengthening, streamlining, and simplifying SBA's programs while leveraging collaborative relationships with other agencies and the private sector to maximize the tools small business owners and entrepreneurs need to drive American innovation and strengthen the economy. The plan sets out four strategic goals: (1) Support small business revenue and job growth; (2) Build healthy entrepreneurial ecosystems and create business friendly environments; (3) Restore small

businesses and communities after disasters; and (4) Strengthen SBA's ability to serve small businesses. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding access to capital through SBA's extensive lending network;
- Helping small business exporters succeed in global markets;
- Ensuring Federal contracting and innovation goals are met or exceeded;
- Empowering veterans and military families who want to start or grow their business;
- Delivering entrepreneurial counseling and training services in collaboration with resource partners; and
- Enhancing program oversight and risk management and improving recovery of taxpayer assets.

The regulations reported in SBA's semi-annual regulatory agenda and plan are intended to facilitate achievement of these strategic goals and objectives and further the objectives of Executive Order 13771. Over the next twelve months, SBA's highest priorities will be to implement the following three regulations.

Executive Order 13771 Designation – Deregulatory Actions

(1) Small Business HUBZone Program and Government Contracting Programs (RIN: 3245-AG38)

As part of its efforts to fulfill the objectives of Executive Order 13771, SBA has completed a comprehensive review of the regulations for the Historically Underutilized Business Zone (HUBZone) Program. As a result of that review, this rule will eliminate ambiguities in the regulations and reduce the regulatory burdens imposed on HUBZone small business concerns and Government agencies. The amendments will make it easier for small business concerns to understand and comply with the program's requirements and make the HUBZone program a more attractive option for procuring Federal agencies.

For example, the rule will eliminate the burden on HUBZone small businesses to continually demonstrate that they meet all eligibility requirements at the time of each HUBZone contract offer and award. The rule will require only annual recertification. This reduced burden on certified

HUBZone small businesses will allow a firm to remain eligible for future HUBZone contracts for an entire year, without requiring it to demonstrate that it continues to meet all HUBZone requirements. The rule will also eliminate the requirement for the concern to relocate in order to attempt to maintain its HUBZone status when the area where the business is located or a qualifying employee resides loses its HUBZone status.

In addition to carrying out the Administration's regulatory policy, removal of these and similar regulatory requirements will make it easier for firms to meet the eligibility requirements for HUBZone contracts, and help SBA to achieve its strategic objective to simplify access to federal contracting for small businesses.

(2) Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business -- Certification (RIN: 3245-AG75)

SBA will amend its regulations to implement amendments to the Women-Owned Small Business (WOSB) and Economically Disadvantaged Women-Owned Small Business (EDWOSB) Federal Contract Program that were authorized by section 825 of the National Defense Authorization Act of 2015. Based on this authority, SBA will create a certification program for its WOSB and EDWOSB contracting program that, once implemented, will streamline the review process and provide an option for small businesses that reduces their certification costs. The changes would further SBA's strategic objectives to simplify the process and increase contracting opportunities for small businesses. The reduction in certification costs would also further the regulatory reform objectives of Executive Order 13771.

The current WOSB and EDWOSB contracting program permits firms to self-certify for the program or to be certified by a third-party certifier (TPC). The program also currently requires firms to submit documentation to an SBA-maintained electronic document repository. SBA regulations currently require contracting officers to check the repository for documents submitted by every WOSB or EDWOSB contract awardee. The rule will establish an SBA certification process and remove both the self-certification option and the requirement for contracting officers to review the repository documents. Shifting responsibilities to SBA and streamlining the review process will enable contracting officers to focus more on awarding awards, which should lead to

an increased number of set-aside or sole source contracts for WOSBs and EDWOSBs. This outcome would help SBA to achieve its strategic objectives to ensure Federal agencies meet or exceed their small business contracting goals.

While it is important to implement rules that do not unnecessarily burden small businesses, SBA also has a responsibility to ensure that its programs are serving only those businesses that meet program eligibility requirements. To that end, this rule will also establish standards for increased oversight in order to ensure continuing eligibility of certified program participants.

Executive Order 13771 Designation – Other Action

(1) Implementation of the Small Business 7(a) Lending Oversight Reform Act of 2018 (RIN: 3245-AH05)

In order to protect the safety and soundness of its business loan programs, SBA's Office of Credit Risk Management (OCRM) is responsible for monitoring performance of the various types of lenders that participate in these loan programs, managing the programs' credit risks, and enforcing applicable program regulations and procedures. The recently enacted Small Business 7(a) Lending Oversight Reform Act of 2018 increases SBA's authority to supervise lenders and enforce prudent lending standards. This rule will make the regulatory amendments necessary to implement the new authorities. The amendments will clarify or add conditions for informal and formal enforcement actions, including supervisory letters, voluntary letters, suspensions or revocations of lending authority. The rule will also implement the statutory provision that authorizes lenders to appeal enforcement actions to SBA's Office of Hearings and Appeals.

SBA recognizes the importance of maintaining a comprehensive lender oversight and risk management system. As evidence of its commitment to a robust credit risk management system, SBA has identified lender oversight and risk management as one of the Agency's strategic objectives in its FY 2018-2022 Strategic Plan. After SBA has implemented the statutorily required amendments, the revised regulations will enhance SBA's oversight capabilities, reduce risk, and ensure the integrity of the small business loan programs.